

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Acopia Networks

Application No./Patent No.: 10/756,189 Filed/Issue Date: January 13, 2004

Entitled: METHODS AND APPARATUS FOR ADAPTIVE SERVICES NETWORKING

F5 Networks, Inc. a Corporation
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 015575, Frame 0340, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whole title is supplied below) is authorized to act on behalf of the assignee.

| | |
|--|---|
| _____ /Gunnar G. Leinberg/ Signature | _____ March 7, 2008 Date |
| _____ Gunnar G. Leinberg Printed or Typed Name | _____ (585) 263-1014 Telephone Number |
| _____ Title | |

SEND TO: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

AUGUST 29, 2007

PTAS

CHAPIN & HUANG, L.L.C.
BARRY W. CHAPIN, ESQ.
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 07/19/2004

REEL/FRAME: 015575/0340
NUMBER OF PAGES: 8

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: AC00302

ASSIGNOR:

BERGER, MICHAEL A.

DOC DATE: 05/14/2004

ASSIGNOR:

CURLEY, ROBERT T.

DOC DATE: 05/14/2004

ASSIGNOR:

DIETTERICH, DANIEL J.

DOC DATE: 05/14/2004

ASSIGNOR:

HOMBERG, MICHAEL J.

DOC DATE: 05/14/2004

ASSIGNOR:

MCCANN, BENJAMIN E.

DOC DATE: 05/14/2004

ASSIGNOR:

FERGUSON, JC

DOC DATE: 05/14/2004



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9/26/07



AC003-02

CORRECTED
NOTICE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

AUGUST 23, 2007

PTAS

CHAPIN & HUANG, L.L.C.
BARRY W. CHAPIN, ESQ.
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581

UNITED STATES PATENT AND TRADEMARK OFFICE
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DOC DATE: 05/14/2004

ASSIGNOR:
MCCANN, BENJAMIN E.

DOC DATE: 05/14/2004

ASSIGNOR:
FERGUSON, JC

DOC DATE: 05/14/2004



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9/27/07

015575/0340 PAGE 2

ASSIGNEE:

ACOPIA NETWORKS
285 MILL ROAD
CHEMSFORD, MASSACHUSETTS 01824

SERIAL NUMBER: 10756189

FILING DATE: 01/13/2004

PATENT NUMBER:

ISSUE DATE:

TITLE: METHOD AND APPARATUS FOR ADAPTIVE SERVICES NETWORKING

RHONDA NICOL, SUPERVISOR
ASSIGNMENT SERVICES BRANCH
PUBLIC RECORDS DIVISION

RE

07-22-2004

SHEET

7-19-04



102797161

To the Honorable Commissioner

ched original documents or copy thereof.

1. Name of conveying party(ies)

Michael A. Berger Executed: May 14, 2004
 Robert T. Curley Executed: May 14, 2004
 Daniel J. Dieterich Executed: May 14, 2004
 JC Ferguson Executed: May 14, 2004
 Michael J. Homberg Executed: May 14, 2004
 Benjamin E. McCann Executed: May 14, 2004

2. Name and address of receiving party(ies)

Name: Acopia Networks

Internal Address:

Street Address: 285 Mill Road

City: Chelmsford State: MA ZIP: 01824

Additional name(s) of conveying party(ies) attached? ☒ Yes ☐ No

3. Nature of conveyance:

☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other

Additional name(s) & address(es) attached? ☐ Yes ☒ No

Execution Date: 5/14/04, 5/14/04, 5/14/04, 5/14/04, 5/14/04,
 5/14/04, 5/14/04, 5/14/04, 5/14/04, 6/8/04,
 5/14/04, 5/14/04, 5/14/04, 5/14/04, 5/26/04

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

10756,189

B. Patent No.(s)

07/20/2004 BARB0401 00000002 16706102

06 FC:8021

46-00-00

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Barry W. Chapin, Esq.

Internal Address:

CHAPIN & HUANG, L.L.C.

Street Address: Westborough Office Park

1700 West Park Drive

City: Westborough State: MA ZIP: 01581

6. Total number of applications and patents involved: ☐ 1

7. Total Fee (37 C.F.R. 3.41)..... \$ 40.00

☒ Enclosed with application filing fee
☒ Authorized to charge any deficiencies or credit any overpayment to deposit account
☐ Authorized to be charged to deposit account

8. Deposit account number:

50-0901

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Barry W. Chapin, Esq.
 Reg. No.: 39,934

Name of Person Signing

Signature

July 14, 2004

Date

Total number of pages including cover sheet, attachments, and document: [8]

RECORDATION FORM COVER SHEET

Page 2 of 2

| | |
|-----------------------|------------------------|
| Jonathan C. Nicklin | Executed: May 14, 2004 |
| David Porter | Executed: May 14, 2004 |
| Suchi Raman | Executed: May 14, 2004 |
| Craig S. Rasmussen | Executed: June 8, 2004 |
| Michael J. Soha | Executed: May 14, 2004 |
| Thomas J. Teixeira | Executed: May 14, 2004 |
| Bryan T. Whitmore | Executed: May 14, 2004 |
| Leonard F. Wisniewski | Executed: May 14, 2004 |
| Chin-Cheng Wu | Executed: May 26, 2004 |

ASSIGNMENT

WHEREAS, we, Michael A. Berger, Robert T. Curley, Daniel J. Dietterich, JC Ferguson, Michael J. Homberg, Benjamin E. McCann, Jonathan C. Nicklin, David Porter, Suchi Raman, Craig S. Rasmussen, Michael J. Soha, Thomas J. Teixeira, Bryan T. Whitmore, Leonard F. Wisniewski, and Chin-Cheng Wu have invented a certain improvement in **METHOD AND APPARATUS FOR ADAPTIVE SERVICES NETWORKING** described in an application for Letters Patent of the United States, the specification of which:

- ☐ is being executed on even date herewith and is about to be filed in the United States Patent Office;
- ☒ was filed on January 13, 2004 as U.S. Application No. 10/756,189;
- ☐ was patented under U.S. Patent No. _____ on _____.

WHEREAS, Acopia Networks (hereinafter "ASSIGNEE"), a corporation organized and existing under the laws of the State of Delaware and having a usual place of business at 285 mill Road, Chelmsford, Massachusetts 01824 desires to acquire an interest therein in accordance with agreements duly entered into with us;

NOW, THEREFORE, to all whom it may concern be it known that for and in consideration of said agreements and of other good and valuable consideration, the receipt of which is hereby acknowledged, we have sold, assigned and transferred and by these presents do hereby sell, assign and transfer unto said ASSIGNEE, its successors, assigns and legal representatives, the entire right, title and interest in and throughout the United States of America, its territories and all foreign countries, in and to said invention as described in said application, together with the entire right, title and interest in and to said application and such Letters Patent as may issue thereon; said invention, application and Letters Patent to be held and enjoyed by said ASSIGNEE for its own use and behalf and for its successors, assigns and legal representatives, to the full end of the term for which said Letters Patent may be granted as fully and entirely as the same would have been held by us had this assignment and sale not been made; we hereby convey all rights arising under or pursuant to any and all international agreements, treaties or laws relating to the protection of industrial property by filing any such applications for Letters Patent. We hereby acknowledge that this assignment, being of the entire right, title and interest in and to said invention, carries with it the right in ASSIGNEE to apply for and obtain from competent authorities in all countries of the world any and all Letters Patent by attorneys and agents of ASSIGNEE's selection and the right to procure the grant of all such Letters Patent to ASSIGNEE for its own name as assignee of the entire right, title and interest therein;

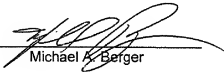
- 2 -

AND, we hereby further agree for ourselves and our executors and administrators to execute upon request any other lawful documents and likewise to perform any other lawful acts which may be deemed necessary to secure fully the aforesaid invention to said ASSIGNEE, its successors, assigns and legal representatives, but at its or their expense and charges, including the execution of applications for patents in foreign countries, and the execution of substitution, reissue, divisional or continuation applications and preliminary or other statements and the giving of testimony in any interference or other proceeding in which said invention or any application or patent directed thereto may be involved;

AND, we do hereby authorize and request the Commissioner of Patents of the United States to issue such Letters Patent as shall be granted upon said application or applications based thereon to said ASSIGNEE, its successors, assigns, and legal representatives.

IN TESTIMONY WHEREOF, we have hereunto set our hands and the date set forth below.

Inventor: _____


Michael A. Berger

Dated: _____

5/14/2004


Inventor: _____


Robert T. Curley

Dated: _____

5-14-04

Inventor: _____


Daniel J. Dietterich

Dated: _____

5-14-04

- 3 -

Inventor: 

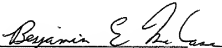
J.C. Ferguson

Dated: 5/14/2004

Inventor: 

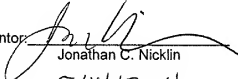
Michael J. Homberg

Dated: 5/14/2004

Inventor: 

Benjamin E. McCann

Dated: 5/14/2004

Inventor: 


Jonathan C. Nicklin

Dated: 5/14/2004

Inventor: 

David Porter

Dated: May 14, 2004

Inventor: 

Suchi Raman

Dated: May 14, 2004

- 4 -

Inventor: (See ATTACHED)
Craig S. Rasmussen

Dated: _____

Inventor: Michael J. Soha
Michael J. Soha

Dated: 5/14/04

Inventor: (See ATTACHED)
Thomas J. Teixeira

Dated: _____

Inventor: Bryan T. Whitmore
Bryan T. Whitmore

Dated: 5/14/04

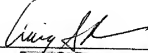
Inventor: Leonard F. Wisniewski
Leonard F. Wisniewski

Dated: 5/14/04

Inventor: Chin-Cheng Wu
Chin-Cheng Wu

Dated: 5/24/04

- 4 -

Inventor: 
Craig S. Rasmussen

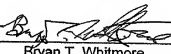
Dated: 6/8/2004

Inventor: 
Michael J. Soha

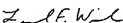
Dated: 5/14/04

Inventor: (See ATTACHED)
Thomas J. Teixeira

Dated: _____

Inventor: 
Bryan T. Whitmore

Dated: 5/14/04

Inventor: 
Leonard F. Wisniewski

Dated: 5/14/04

Inventor: 
Chin-Cheng Wu

Dated: 5/26/04

Attorney Docket No.: AC003-02

Inventor: Craig S. Rasmussen

Dated: _____

Inventor: Michael J. Soha

Dated: _____

Inventor: Thomas J. Teixeira

Dated: May 14, 2004

Inventor: Bryan T. Whitmore

Dated: _____

Inventor: Leonard F. Wisniewski

Dated: _____

Inventor: Chin-Cheng Wu

Dated: _____

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"CHECKMATE ACQUISITION CORPORATION", A DELAWARE CORPORATION, WITH AND INTO "ACOFIA NETWORKS, INC." UNDER THE NAME OF "ACOFIA NETWORKS, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE TWELFTH DAY OF SEPTEMBER, A.D. 2007, AT 2:31 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

3466301 8100M

071009850



Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State
AUTHENTICATION: 5994813

DATE: 09-12-07

CERTIFICATE OF MERGER
MERGING
CHECKMATE ACQUISITION CORPORATION
INTO
ACOPIA NETWORKS, INC.

Pursuant to Section 251 of the
General Corporation Law
of the State of Delaware

ACOPIA NETWORKS, INC. hereby certifies as follows:

1. The name and state of incorporation of the constituent corporations are: (a) Acopia Networks, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Company"), and (b) Checkmate Acquisition Corporation, a corporation organized and existing under the laws of the State of Delaware ("Acquisition Sub") (collectively the "Constituent Corporations").
2. The Agreement and Plan of Merger by and among F5 Networks, Inc., a Washington corporation, Acquisition Sub, the Company, and Charles River Ventures, LLC, dated as of August 6, 2007, setting forth the terms and conditions of the merger of Acquisition Sub with and into the Company (the "Merger") was approved, adopted, certified, executed and acknowledged by each of the Constituent Corporations in accordance with Section 251 of the General Corporation Law of the State of Delaware.
3. Upon consummation of the Merger, the surviving corporation will be the Company (the "Surviving Corporation"). The name of the Surviving Corporation will be Acopia Networks, Inc.
4. Upon effectiveness of the Merger, the Certificate of Incorporation of the Surviving Corporation will be amended in its entirety as set forth in Exhibit A attached hereto.
5. The executed Agreement and Plan of Merger is on file at the principal place of business of the Surviving Corporation at 41 Wellman Street, Lowell, Massachusetts 01851.
6. A copy of the Agreement and Plan of Merger will be furnished by the Surviving Corporation upon request and without cost to any stockholder of either of the Constituent Corporations.
7. The Merger will become effective upon the filing of this Certificate of Merger with the Secretary of State of the State of Delaware.

IN WITNESS WHEREOF, the undersigned has caused this Certificate to be executed as of the
12th day of September, 2007.

ACOPIA NETWORKS, INC.

By 

Its President and Chief Executive Officer

Christopher Lynch

EXHIBIT A

**AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
ACOPIA NETWORKS, INC.**

Pursuant to the provisions of Section 102 of the General Corporation Law of the State of Delaware, the following Certificate of Incorporation is submitted for filing:

ARTICLE 1. NAME

The name of this corporation is Acopia Networks, Inc.

ARTICLE 2. REGISTERED OFFICE AND AGENT

The respective names of the County and of the City within the County in which the registered office of the corporation is to be located in the state of Delaware are the county of New Castle and the city of Wilmington. The street and number of said registered office and the address by street and number of said registered agent is 2711 Centerville Road, Suite 400 Wilmington, Delaware 19808. The name of the Registered Agent in the state of Delaware is Corporation Service Company.

ARTICLE 3. PURPOSE

This corporation is organized for the purposes of transacting any and all lawful business for which a corporation may be incorporated under Section 102 of the General Corporation Law of the State of Delaware, as amended from time to time.

ARTICLE 4. CAPITAL STOCK

The authorized capital stock of this corporation shall consist of One Thousand (1,000) shares of common stock with \$0.0001 par value.

ARTICLE 5. DURATION

This corporation has a perpetual existence.

ARTICLE 6. PREEMPTIVE RIGHTS

Stockholders of this corporation have no preemptive rights to acquire additional shares of stock or securities convertible into shares of stock issued by the corporation.

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (the "**Agreement**"), dated August 6, 2007, among F5 Networks, Inc., a Washington corporation ("**Parent**"), Checkmate Acquisition Corporation, a Delaware corporation and a wholly-owned subsidiary of Parent ("**Acquisition Sub**"), Acopia Networks, Inc., a Delaware corporation ("**Company**"), and Charles River Ventures, LLC (the "**Stockholders' Representative**") as agent and attorney-in-fact for the holders of Company Shares (as defined in Section 2.1).

INTENDING TO BE LEGALLY BOUND, and in consideration of the premises and the mutual representations, warranties, covenants, and agreements in this Agreement, the parties hereby agree as follows:

ARTICLE I
THE MERGER

1.1 **Effective Time of the Merger.** Subject to the provisions of this Agreement, Acquisition Sub will be merged with and into Company (the "**Merger**"). A certificate of merger ("**Certificate of Merger**") will be duly prepared by the parties, executed by Surviving Corporation (as defined below) and thereafter delivered to the Secretary of State of Delaware for filing, as provided in the Delaware General Corporation Law (the "**DGCL**") as soon as practicable on or after the Closing Date (as defined in Section 1.2). The Merger will become effective upon the later of the acceptance for filing of the Certificate of Merger by the Secretary of State of Delaware or at such later time as is provided in the Certificate of Merger (the "**Effective Time**"). Solely for purposes of clarification, Company and the Stockholders' Representative acknowledge and agree that Parent will have no obligation to make any payment in accordance with this Agreement until the Effective Time.

1.2 **Closing.** The closing of the Merger ("**Closing**") will take place on September 14, 2007, unless all of the conditions set forth in Article VII have not been either satisfied or waived by such date in which case the Closing will take place within two business days after satisfaction or waiver of the last to be fulfilled of such conditions (the "**Closing Date**"), at the offices of Kirkpatrick & Lockhart Preston Gates Ellis LLP at 925 Fourth Avenue, Suite 2900, Seattle, Washington 98104, unless another date or place is agreed to in writing by Parent and Company.

1.3 **Effects of the Merger.** At the Effective Time: (i) the separate existence of Acquisition Sub will cease and Acquisition Sub will be merged with and into Company and Company will continue as the surviving corporation and as a wholly owned subsidiary of Parent (after the Merger, Company is sometimes referred to in this Agreement as the "**Surviving Corporation**"); (ii) the certificate of incorporation of Company will be amended and restated in its entirety to be the same as the certificate of incorporation of Acquisition Sub, as in effect immediately prior to the Effective Time, until later amended in accordance with the DGCL; (iii) the bylaws of Surviving Corporation will be amended and restated in their entirety to be the same as the bylaws of Acquisition Sub, as in effect immediately prior to the Effective Time, until later amended in accordance with the provisions thereof, the certificate of incorporation and the DGCL; (iv) the directors and officers of Acquisition Sub immediately prior to the Effective Time will be the directors and officers of the Surviving Corporation in each case until their respective successors have been duly elected, designated, or qualified or until their earlier death, resignation, or removal in accordance with the Surviving Corporation's certificate of incorporation and bylaws; and (v) the Merger will, from and after the Effective Time, have all the effects provided by Section 259 of the DGCL and other applicable law.

SIGNATURE PAGE—AGREEMENT AND PLAN OF MERGER

IN WITNESS WHEREOF, Parent, Acquisition Sub, Company, and the Stockholders' Representative have signed or caused their respective duly authorized officers to sign this Agreement, all as of the date first written above.

F5 NETWORKS, INC.

By Jeffrey A. Christianson
Its Jeffrey A. Christianson
Sr. VP & General Counsel

CHECKMATE ACQUISITION CORPORATION

By Jeffrey A. Christianson
Its Jeffrey A. Christianson
Sr. VP & General Counsel

ACOPIA NETWORKS, INC.

By _____
Its _____

CHARLES RIVER VENTURES, LLC, as
STOCKHOLDERS' REPRESENTATIVE

By _____
Its _____

SIGNATURE PAGE—AGREEMENT AND PLAN OF MERGER

IN WITNESS WHEREOF, Parent, Acquisition Sub, Company, and the Stockholders' Representative have signed or caused their respective duly authorized officers to sign this Agreement, all as of the date first written above.

F5 NETWORKS, INC.

By _____

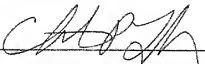
Its _____

CHECKMATE ACQUISITION CORPORATION

By _____

Its _____

ACOPIA NETWORKS, INC.

By  _____

Its President and Chief Executive Officer

CHARLES RIVER VENTURES, LLC, as
STOCKHOLDERS' REPRESENTATIVE

By _____

Its _____

SIGNATURE PAGE—AGREEMENT AND PLAN OF MERGER

IN WITNESS WHEREOF, Parent, Acquisition Sub, Company, and the Stockholders' Representative have signed or caused their respective duly authorized officers to sign this Agreement, all as of the date first written above.

F5 NETWORKS, INC.

By _____

Its _____

CHECKMATE ACQUISITION CORPORATION

By _____

Its _____

ACOPIA NETWORKS, INC.

By _____

Its _____

CHARLES RIVER VENTURES, LLC, as
STOCKHOLDERS' REPRESENTATIVE

By B. A. Jank

Its Member